



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,962	12/30/1999	FRANK JOSEPH PENNISI, JR	9D-EC-19319	7121

7590

06/27/2006

John S. Beulick  
Armstrong Teasdale LLP  
One Metropolitan Square, Suite 2600  
St. Louis, MO 63102

EXAMINER
----------

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/475,962

**Applicant(s)**

PENNISI, JR, FRANK JOSEPH

**Examiner**

Beth Van Doren

**Art Unit**

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,8-17,19,20,22,24-33,35,36,38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9-17,19,20,25-33,35,36 and 40 is/are rejected.
- 7) ☒ Claim(s) 6,8,22,24 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application on 06/15/2006 after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/08/06 has been entered.
2. The following is a non-final office action. Claims 1, 3, 6, 17, 19, 22, 24, 33, 35, 38, and 40 have been amended. Claims 2, 5, 7, 18, 21, 23, 34, 37, 39, and 41-48 have been canceled. Claims 1, 3-4, 6, 8-17, 19-20, 22, 24-33, 35-36, 38, and 40 are now pending.

### ***Allowable Subject Matter***

3. Claims 6, 8, 22, 24, 38, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Objections***

4. Claim 8 is objected to because it depends from a canceled claim. For examination purposes, it has been construed that claim 8 is dependent on claim 4. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3623

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 16, 17, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. (U.S. 5,835,716) in view of Silver et al. (Inventory Management and Production Planning and Scheduling).

As per claim 1, Hunt et al. teaches a method of tracking and predicting the capacity utilization of a goods delivery system, the system having at least one delivery agent and at least one delivery zone comprising a geographic area comprising at least one zip group having at least one zip code, each delivery agent having at least one delivery vehicle comprising a plurality of delivery vehicle slots, each delivery vehicle slot defined as a portion of one of the delivery vehicles used to deliver a good, the goods delivery system providing a respective first potential delivery date for approval by a user, a respective order, and the number of slots the respective order will fill, said method of tracking capacity utilization comprising the steps of:

defining a delivery agent capacity utilization matrix for each delivery agent for a specific delivery zone, the delivery agent capacity utilization matrix comprises a number of delivery vehicle slots that the delivery agent has for use in the delivery zone, including a number of delivery vehicle slots for each zip group in the delivery zone, the total number of vehicle delivery slots in the zone defining a zone delivery capacity of the delivery agent (See figure 3A, column 2, line 55-column 3, line 16, column 6, lines 4-25, and column 7, lines 21-31, wherein the amount of open capacity per geographic zone is defined for a delivery agent);

determining a respective zone maximum number of delivery vehicle slots and a respective number of used delivery slots for a specified period of time within the respective delivery zone, the zone maximum number of delivery slots defined by the sum of the zone

Art Unit: 3623

delivery capacity of each delivery agent in the delivery zone (See column 3, lines 24-44, column 6, lines 44-50, column 7, lines 33-50 and 63-67, column 9, lines 19-40 and 62-67, wherein the maximum capacity of the carrier is stored in the system and wherein the available capacity is with regards to the maximum capacity and the capacity accounted for. The system decrements available capacity as the capacity is accounted for);

determining whether the respective order can be shipped on the first potential ship date based on the number of available delivery vehicle slots, wherein said respective number of available delivery vehicle slots is equal to said respective zone maximum number of delivery vehicle slots minus said respective number of used delivery slots (See column 3, lines 24-44, column 7, lines 35-55 and line 63-column 8, line 5, column 9, lines 19-40 and 62-67, wherein it is determined if an order can be shipped on a selected date based on capacity availability);

returning a respective date that the respective order can be delivered based on the number of available vehicle delivery slots on the respective date for approval by the user (See column 7, lines 45-55, column 8, lines 1-5 and 20-32, column 9, lines 19-32, wherein the database is queried and a date and rate table is displayed based on the results, wherein the date is approved by the user); and

updating the respective delivery agent capacity utilization matrix for the above specified period after the respective order has been included within said respective number of used vehicle delivery slots (See column 9, lines 30-40 and 60-67, wherein the system updates the capacity of the carrier when the delivery is included).

However, Hunt et al. does not expressly disclose a buyer. Further, Hunt et al. does not expressly disclose calculating a workload utilization and storing the result in a workload value

Art Unit: 3623

for each of said respective slots; setting a respective over capacity flag after determining the sum of a set of said preselected workload values is greater than a predetermined over capacity value over a historical period; and setting a respective under capacity flag after determining that said set of preselected workload values are each less than a predetermined under capacity value over a historical period.

Silver et al. discloses a full truckload application using the service point approach (see page 440), which includes:

calculating a workload utilization and storing the result in a workload value for each of said respective slots; setting a respective over capacity flag after determining the sum of a set of said preselected workload values is greater than a predetermined over capacity value over a historical period; and setting a respective under capacity flag after determining that said set of preselected workload values are each less than a predetermined under capacity value over a historical period (See pages 440-441, wherein an acceptable workload usage (i.e. ASPRC) is calculated. A capacity flag is set for the truckload, where if the truckload amount (i.e. ESPRC) is greater than the workload usage, then the truckload is sent and the order is placed. Otherwise, when the truckload amount is less than the workload amount, the order waits. See also pages 441-443).

Silver et al. further discloses a customer placing the order from the distributor (See page 423-424 and 441, wherein the products are being replenished by a supplier/and distributor and are being paid for by the customer).

Silver et al. and Hunt et al. both discuss trying to meet capacity requirements of a truck before allowing the truck to deliver goods. It would have been obvious to one of ordinary skill

Art Unit: 3623

in the art at the time of the invention to employ the approach of Silver et al. to balance when to send the truckload of Hunt et al. in order to more efficiently reduce the cost associated with delivery. See page 441 of Silver et al and column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

Further, Hunt et al. discloses a system where a carrier delivers a requested item, such as a product to an end point with a specific address and a specific delivery date. Hunt et al. further discloses that the technological advances and better methods of doing business have spurred greater demand for carrier service. A buyer being the recipient of a delivered a product is old and well known in business and sales, such as with catalog ordering and e-commerce. Silver et al. further discloses a customer placing the order from the distributor. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow a buyer to be the user of the system of Hunt et al. in order to more efficiently deliver an ordered product to a buyer, thus reducing costs and better adhering to a schedule. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50.

As per claim 16, Hunt et al. teaches the method wherein said specified period of time is a preset number of days (See figure 3B and column 7, lines 45-55, which discusses entering a date range). However, Hunt et al. does not expressly disclose that the preset number of days in the range is thirty days.

Hunt et al. discloses a system where a carrier delivers a requested item, such as a product, based on a search of carrier capacity using a specified and preset date range. It would have been obvious to one of ordinary skill in the art at the time of the invention to set this preset number of days in the date range to thirty days in order to more efficiently match the delivery to available

Art Unit: 3623

capacity by broadening the date and time values for the database search. See column 7, lines 45-55.

Claims 17 and 33 both recite equivalent limitations to claim 1 and are therefore rejected using the same art and rationale relied upon above.

Claims 32 recites equivalent limitations to claim 16 and are therefore rejected using the same art and rationale relied upon above.

7. Claims 3-4, 9-15, 19-20, 25-31, and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. (U.S. 5,835,716) in view of Silver et al. (Inventory Management and Production Planning and Scheduling) and in further view of Mowery et al. (U.S. 5,983,198).

As per claim 3, Hunt et al. discloses calculating a capacity utilization matrix (See figure 3A, column 2, line 55-column 3, line 16, column 6, lines 4-25, and column 7, lines 21-31, wherein the amount of open capacity per geographic zone is defined for a delivery agent). However, neither Hunt et al. nor Silver et al. expressly discloses that the step of calculating the workload utilization comprises the step of calculating said respective workload value, wherein said respective workload value = (last workload + (number of filled slots) / (zip group maximum)).

Mowery at al. teaches wherein the step of calculating the capacity utilization comprises the step of calculating said respective workload value, wherein said respective workload value analyzes the last workload and the number of filled slots of the delivery versus the zip group maximum (See figure 5, column 3, lines 35-50, column 4, lines 12-45 and 56-61, column 5, lines 30-35, 47-50, and 60-65, column 6, lines 1-13 and 20-36, column 7, lines 15-33, and column 9,

Art Unit: 3623

lines 1-13, wherein the central system runs analysis on the data to calculate the workload utilization of the plant. The capacity usage of a plant is analyzed to determine the workload of the plant. An analysis is run by the central system to determine the patterns in a plant's workload which looks at the last workloads of a previous period and the current amount put in each tank in the current period (the fraction of each tank filled on the current delivery)).

However, Mowery et al. does not expressly disclose that the relationship of the workload value is represented by the specific formula of workload value = (last workload + (number of filled slots) / (zip group maximum)).

Hunt et al. and Silver et al. are combinable for the reasons set forth above. Both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Mowery et al. presents an algorithm that is used to determine the workload of a plant.

Representing functional relationships in equation form is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to calculate workload utilization for the delivery slots in order to more accurately determine the workload for delivery, thus reducing delivery costs. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al. and column 5, lines 50-60 of Mowery et al. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to represent this relationship in equation form in order to more accurately depict the functional relationship in a way that is easier to comprehend and use by others.

As per claims 4, Hunt et al. discloses that capacity of a delivery agent is all accounted for and that no shipping times are available. Hunt et al. further discloses generating a manifest when

Art Unit: 3623

a carrier is full as well as the system knowing when the carrier still has space to be filled (See figures 3A-3C, column 3, lines 25-45, column 8, lines 1-5, column 9, lines 25-40 and 60-67).

However, Hunt et al. does not expressly disclose the step of setting a respective capacity signal when an over capacity condition and an under capacity condition has been detected.

Silver et al. disclose the step of setting a respective capacity signal when an over capacity condition and an under capacity condition has been detected (See pages 441-442).

Silver et al. and Hunt et al. both discuss trying to meet capacity requirements of a truck before allowing the truck to deliver goods. It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the approach of Silver et al. to balance when to send the truckload of Hunt et al. in order to more efficiently reduce the cost associated with delivery. See page 441 of Silver et al and column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

Further, Mowery et al., Hunt et al., and Silver et al. are combinable for the reasons set forth above.

As per claim 9, Hunt et al. discloses that capacity of a delivery agent is all accounted for and that no shipping times are available. Hunt et al. further discloses generating a manifest when a carrier is full as well as the system knowing when the carrier still has space to be filled (See figures 3A-3C, column 3, lines 25-45, column 8, lines 1-5, column 9, lines 25-40 and 60-67). However, neither Hunt et al. nor Silver et al. expressly disclose predicting the probability of a future respective used slot being full based on historical over capacity conditions.

Mowery et al. teaches the method further comprising the step of predicting the probability of a future respective used slot being full based on historical over capacity conditions

Art Unit: 3623

(See figure 5, column 2, lines 40-51, column 3, lines 50-55, column 4, lines 1-3 and 33-45, column 5, lines 36-55 and 60-65, column 6, lines 1-13 and 18-37, column 8, lines 61-67, and column 9, lines 1-7, wherein the probability of future usage and slots (levels) being full is determined using historical data, such as over capacity condition).

Silver et al. and Hunt et al. are combinable for the reasons set forth above. Further, both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Further, both Mowery et al. and Hunt et al. disclose considering the used capacity of a carrier when determining how to efficiently put a delivery on a specific carrier. Mowery et al. specifically deals with analyzing historical data to determine delivery routes and loads in the present and future. It would have been obvious to one of ordinary skill in the art at the time of the invention to consider historical capacity usage of the carriers to predict future usage in order to more efficiently reduce delivery costs by locating all available capacity of carriers. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

As per claim 10, neither Hunt et al. nor Silver et al. expressly disclose and Mowery et al. discloses wherein the step of predicting the probability of a future respective used slot being full further comprises the steps of:

obtaining the workload values for a predetermined period of time (See figure 5, column 2, lines 40-51, column 3, lines 50-55, column 4, lines 1-3 and 33-45, column 5, lines 36-55 and 60-65, column 6, lines 1-13 and 18-37, column 8, lines 61-67, and column 9, lines 1-7, wherein workload data is stored and obtained for a predetermined period of time); and

determining the probability that the next used time slot will meet an over capacity condition using a distribution function (See figure 5, column 2, lines 53-67, column 5, lines 36-55 and 60-65, and column 6, lines 1-13 and 18-37, wherein forecasting is done to determine the probability that the next used slot will meet an over capacity condition. A distribution function is used to look at the data);

wherein said over capacity condition is defined as the state when the workload value is greater than or equal to 100 percent (See figure 5, wherein the over capacity condition is defined as a workload value over 100 percent).

Silver et al. and Hunt et al. are combinable for the reasons set forth above. Further, both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Further, both Mowery et al. and Hunt et al. disclose considering the used capacity of a carrier when determining how to efficiently put a delivery on a specific carrier. Mowery et al. specifically deals with analyzing historical data to determine delivery routes and loads in the present and future. It would have been obvious to one of ordinary skill in the art at the time of the invention to consider historical capacity usage of the carriers to predict future usage in order to more efficiently reduce delivery costs by locating all available capacity of carriers. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

As per claim 11, neither Hunt et al. nor Silver et al. expressly disclose and Mowery et al. discloses the step of predicting whether the trend line of the capacity utilization is changing (See at least figure 5 and column 5, lines 35-55 and 60-55, and column 6, lines 18-36, which discuss

predicting whether the trend line of the capacity usage of a plant is changing looking at historical usage data).

Silver et al. and Hunt et al. are combinable for the reasons set forth above. Further, both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Further, both Mowery et al. and Hunt et al. disclose considering the used capacity of a carrier when determining how to efficiently put a delivery on a specific carrier. Mowery et al. specifically deals with analyzing historical data to determine delivery routes and loads in the present and future. It would have been obvious to one of ordinary skill in the art at the time of the invention to consider historical capacity usage of the carriers to predict future usage in order to more efficiently reduce delivery costs by locating all available capacity of carriers. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

As per claim 12, neither Hunt et al. nor Silver et al. expressly disclose and Mowery et al. discloses the method wherein the step of predicting future capacity utilization further comprises the step of determining that the trend line of the capacity utilization for a first fixed period of workload values and that the trend line indicates the usage is changing (See column 8, lines 30-40, which discuss looking at trends in the data through analysis, this analysis indicating an increase in the pattern of the historical data. See column 5, lines 35-55 and 60-55, and column 6, lines 1-10 and 18-36, which discuss predicting whether the trend line of the capacity usage of a plant is changing looking at historical usage data during a fixed time period). However, Mowery et al. does not expressly disclose that the usage is increasing when the slope of the regression line for the period is greater than zero within a predetermined confidence interval.

Silver et al. and Hunt et al. are combinable for the reasons set forth above. Further, both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Further, both Mowery et al. and Hunt et al. disclose considering the used capacity of a carrier when determining how to efficiently put a delivery on a specific carrier. Mowery et al. specifically deals with analyzing historical data to determine delivery routes and loads in the present and future. It would have been obvious to one of ordinary skill in the art at the time of the invention to consider historical capacity usage of the carriers to predict future usage in order to more efficiently reduce delivery costs by locating all available capacity of carriers. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

Further, Mowery et al. discusses using forecasting techniques to predict capacity utilization by looking at trends in past usage data to identify increases, as stated in column 8, lines 30-40. It is old and well known that a slope greater than zero indicates that a trend line is increasing in value. It is also old and well known in statistics to use confidence intervals when sampling populations of data. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize these old and well-known techniques to analyze the utilization trends in order to more accurately predict usage needs, thereby optimizing delivery schedules, minimizing supplier costs, and meeting customer needs, as stated in column 2, lines 20-25 and 30-33, column 5, lines 51-59, and column 8, lines 24-40.

As per claim 13, neither Silver et al. nor Hunt et al. expressly disclose and Mowery et al. discloses determining that the trend line of the capacity utilization for a first fixed period of workload values and that the trend line indicates the usage is changing (See column 8, lines 30-

Art Unit: 3623

40, which discuss looking at trends in the data through analysis, this analysis indicating an decrease in the pattern of the historical data. See column 5, lines 35-55 and 60-55, and column 6, lines 1-10 and 18-36, which discuss predicting whether the trend line of the capacity usage of a plant is changing looking at historical usage data during a fixed time period). However, Mowery et al. does not expressly disclose that the usage is decreasing when the slope of the regression line for the period is less than zero within a predetermined confidence interval.

Silver et al. and Hunt et al. are combinable for the reasons set forth above. Further, both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Further, both Mowery et al. and Hunt et al. disclose considering the used capacity of a carrier when determining how to efficiently put a delivery on a specific carrier. Mowery et al. specifically deals with analyzing historical data to determine delivery routes and loads in the present and future. It would have been obvious to one of ordinary skill in the art at the time of the invention to consider historical capacity usage of the carriers to predict future usage in order to more efficiently reduce delivery costs by locating all available capacity of carriers. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

Further, Mowery et al. discusses using forecasting techniques to predict capacity utilization by looking at trends in past usage data to determine a decrease, as stated in column 8, lines 30-40. It is old and well known that a slope less than zero indicates that a trend line is decreasing in value. It is also old and well known in statistics to use confidence intervals when sampling populations of data. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize these old and well-known techniques to analyze the utilization

Art Unit: 3623

trends in order to more accurately predict usage needs, thereby optimizing delivery schedules, minimizing supplier costs, and meeting customer needs, as stated in column 2, lines 20-25 and 30-33, column 5, lines 51-59, and column 8, lines 24-40.

As per claims 14-15, neither Silver et al. nor Hunt et al. expressly disclose and Mowery et al. discloses the method wherein said first fixed period is seven days (See column 6, lines 1-10 and 19-25, wherein the first fixed period is seven days). However, Mowery et al. does not expressly disclose a confidence interval and that the confidence interval is about 95 percent.

Silver et al. and Hunt et al. are combinable for the reasons set forth above. Further, both Mowery et al. and Hunt et al. disclose delivering goods, such as products and utilities, to delivery points in geographic zones based on the ability of the carrier to take the delivery to the delivery point. Further, both Mowery et al. and Hunt et al. disclose considering the used capacity of a carrier when determining how to efficiently put a delivery on a specific carrier. Mowery et al. specifically deals with analyzing historical data to determine delivery routes and loads in the present and future. It would have been obvious to one of ordinary skill in the art at the time of the invention to consider historical capacity usage of the carriers to predict future usage in order to more efficiently reduce delivery costs by locating all available capacity of carriers. See column 1, lines 20-26 and 55-60, and column 2, lines 30-50 of Hunt et al.

Further, Mowery et al. discusses using forecasting techniques to predict capacity utilization by looking at trends in past usage data. It is old and well known in statistics to use confidence intervals when sampling graphed populations of data. Furthermore, using a confidence interval of about 95 percent is a statistical standard. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize confidence intervals when

Art Unit: 3623

analyzing the utilization trends in order to more accurately predict usage needs, thereby optimizing delivery schedules and minimizing supplier costs, as stated in column 2, lines 20-25 and 30-33, and column 5, lines 51-59.

Claims 19-20, 25-31, and 35-36, recite equivalent limitations to claims 3-4, 9-15, and 3-4, respectively, and are therefore rejected using the same art and rationale relied upon above.

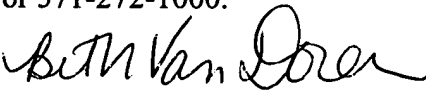
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bvd  
June 22, 2006

  
Beth Van Doren  
AU 3623